IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 580 OF 2003

SHRI BALCRISHNA S.NAIK GAONKAR AND 3 ORS., ...Petitioners

Versus

SHRI UDAY F.NAIK GAONKAR AND 12 ORS., ...Respondents

SHRI NITIN P. PURUSHAN,

Coram:- A.M.KHANWILKAR, J.

Date:- 18th December, 2003

P.C.:

The Order that is challenged in this Writ Petition under Article 227 of the Constitution of India is essentially a discretionary order passed by the Court below. The Court below has recorded as a fact that inspite of several opportunities the petitioners did not produce evidence or secure the presence of the plaintiffs' witnesses. No fault can be found with the said view taken by the court below.

However, by way of indulgence and in the interests of justice, the petitioners be given one opportunity to produce evidence as counsel for the petitioners has given assurance before this Court that no request for adjournment on whatever count will be made before the trial Court hereafter. Ordinarily, this

Court ought to issue notice to the respondents before finally disposing of this petition. However, there are 13 respondents and besides it is only a matter of giving opportunity to the petitioners and as observed earlier, I am inclined to grant that indulgence to the petitioners in the interests of justice.

Moreover, the petitioenrs have given assurance before this Court as mentined earlier, that every attempt will be made to facilitate early disposal of the suit and no request for adjournment on any count will be made before the trial Court hereafter. On that understanding, this indulgence is shown. Besides, the petitioners shall pay costs to each of the respondents quantified at Rs.500/- (rupees five hundred only) each, i.e. totally Rs.6,500/- (rupees six thousand five hundred). Costs be made over to the respondents or be deposited before the trial Court within two weeks from today, failing which this Order will stand recalled. On the above terms, this petition is finally disposed of. In the event the respondents have any objection to the above order, it will be open for them to approach this Court so as to recall this Order.

A.M.KHANWILKAR, J.